IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 5950 OF 1996.

Chairman, Jawaharlal Nehru Institute
of Educational Science & Technology & Research & Ors.... .. Petitioners

V/s

Shri Shah Priyash M. & Anr..... ... . Respondents.

Mr.Madhav Jamdar, Adv. for the petitioners.

Mr.Ajay Panicker for respondent No.1 absent.

Respondent No.2 served.

CORAM: A.P.DESHPANDE, J.

5.3.2007.

Oral Judgment:

The petitioner-Society administers engineering college under the name and style of Smt. Indira Gandhi Engineering College. The respondent No.1 was appointed as the lecturer in the said institute in the department of electronics by an order of appointment dated 6.10.1993. The appointment order stipulated that the appointment was a temporary and ad-hoc appointment made on a consolidated salary of Rs.4000/- per month. Under the said order respondent No.1 had worked during the period of 8.10.1993 to 31.5.1994 and 10.8.1994

to 20.6.1995. What is relevant to notice is that the respondent No.1 was not appointed by the duly constituted Selection Committee comprising of subject experts and others as provided under the act. No employee who is not appointed after following the due procedure at the hands of Selection Committee can claim any right qua the post. The appointment order itself provides that the services of the appointee could be terminated without any notice and without assigning any reason. The respondent No.1 was terminated from service by issuance of notice dated 8.6.1995 which goes to state that the respondent's services are not required and therefore he stands terminated with effect from June, 1995. After termination of service for few months respondent No.1 kept quiet and obtained good teaching certificate from the Principal on 2.2.1996 and subsequent thereto filed an appeal sometime in the month of March, 1996. It is the case of the petitioner that the post was thereafter advertised and has been filled in substantively by conducting selection process by the statutorily constituted Selection Committee and the selected candidate continues to work in the said post. The appointment of the respondent No.1 was by local Managing Committee and not by statutorily constituted Selection Committee. The Tribunal has allowed the appeal filed by the respondent and granted reinstatement with back wages by the impugned judgment and order dated 2.9.1996. Aggrieved by the said

judgment and order passed by the Tribunal, the petitioner has filed instant writ petition wherein interim relief of stay of the said order also came to be granted, which holds the field till date. Admittedly respondent No.1 is not in service since June, 1995 till date. As the learned counsel for respondent No.1 is absent I do not have an opportunity to ascertain the present position so far as respondent No.1 is concerned. Learned counsel for the petitioner submits that unless and until a candidate is selected by the statutorily constituted Selection Committee he cannot acquire any right to the post wherein he is appointed. The appointment of respondent No.1 was made by the local Managing Committee and the appointment order categorically makes it clear that the appointment is ad-hoc and temporary in nature and the incumbent can be terminated from service without any notice and without assigning any reason. If this be the contract, in regard to service, it is hard to find fault with the action of termination. Perused the order passed by the Tribunal. Tribunal has not considered the effect of the appointment being temporary and ad-hoc and hence committed patent illegality in granting reinstatement to respondent No.1. The Tribunal has also not addressed itself to the important aspect about respondent No.1 not being selected by statutorily constituted Selection Committee and hence the impugned judgment and order passed by the Tribunal deserves to be quashed and set aside

being unsustainable. In the result writ petition is allowed. Impugned order passed by the Tribunal is quashed and set aside. Rule made absolute in above terms. Leave to replace Exhibit `A' granted.